

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Laurie Thomas,)
Plaintiff,) C/A No. 1:17-1455-MBS
vs.)
Levern Cohen and Devin Williams,)
Defendants.)

) **OPINION AND ORDER**
)

At the time of the underlying complaint, Plaintiff Laurie Thomas was an inmate in custody of the South Carolina Department of Corrections (SCDC) who was housed at Ridgeland Correctional Institution (RCI) in Ridgeland, South Carolina. Defendant Levern Cohen is Warden of RCI. Defendant Devin Williams is a correctional officer at RCI. Plaintiff, proceeding pro se and in forma pauperis, filed a complaint on June 2, 2017, as amended July 10, 2017, alleging that he had been denied medical care and was subjected to unconstitutional conditions of confinement. Thus, Plaintiff brings this action under 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling. On June 20, 2017, the Magistrate Judge issued an order that, among other things, directed Plaintiff to keep the Clerk of Court advised in writing of any change in address. Plaintiff specifically was warned that his failure to comply with the order could result in dismissal of his case.

On July 5, 2018, the Magistrate Judge granted a motion to extend time filed by Defendants. On July 17, 2018, the envelope containing Plaintiff's copy of the Magistrate Judge's order was returned to the Office of the Clerk of Court marked "RETURN TO SENDER - REFUSED - UNABLE TO FORWARD." On July 17, 2018, the Magistrate Judge issued an order noting that

Defendants had provided an address for Plaintiff that was not the address of record. Accordingly, the Magistrate Judge directed Plaintiff to notify the Clerk of Court of his current address and whether he wished to proceed with the within action. The Magistrate Judge's order was sent to both Plaintiff's address of record and the address provided by Defendants. The envelope addressed to RCI was returned to the Clerk's Office on July 23, 2018, marked "RETURN TO SENDER." The envelope sent to the alternate address was not returned.

On August 1, 2018, the Magistrate Judge issued a Report and Recommendation wherein she recommended that the within action be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. The envelope addressed to RCI was returned to the Clerk's Office on August 6, 2018, marked "RETURN TO SENDER." The envelope sent to the alternate address was not returned. Plaintiff has not responded to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. The complaint is dismissed pursuant to

Rule 41(b) with prejudice for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour

Senior United States District Judge

Columbia, South Carolina

August 24, 2018